

## 1 SENATE BILL NO. 5

2 INTRODUCED BY K. HANSEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PROVISIONAL LICENSE FOR REAL ESTATE  
5 APPRAISER LICENSE APPLICANTS WHO ARE UNABLE TO SECURE SPONSORSHIP FROM AT LEAST  
6 TWO CERTIFIED APPRAISERS IN ORDER TO SATISFY THE EXPERIENCE REQUIREMENT FOR  
7 LICENSURE; AND AMENDING SECTIONS 30-14-1003, 37-54-102, 37-54-105, 37-54-111, 37-54-201,  
8 37-54-202, 37-54-210, 37-54-211, 37-54-403, 37-54-411, 37-54-412, 37-54-415, AND 37-54-416, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 NEW SECTION. **Section 1. Provisionally licensed real estate appraiser.** (1) An applicant for a  
13 provisional real estate appraiser license who demonstrates to the board that the applicant, after completing the  
14 required course of study, has been unable to secure sponsorship from at least two certified appraisers to satisfy  
15 the experience requirement of 37-54-202(1)(c) may apply to the board to take the examination required by  
16 37-54-202(1)(d).

17 (2) (a) The board shall issue a provisional real estate appraiser license under this section to an applicant  
18 who passes the examination and satisfies the other requirements for a real estate appraiser license, other than  
19 the experience requirement of 37-54-202(1)(c).

20 (b) The board may not require an applicant who receives a provisional real estate appraiser license  
21 pursuant to subsection (2)(a) and who completes the experience requirement within the 60-month time period  
22 provided for in subsection (3)(a) to retake the examination provided for in 37-54-202(1)(d).

23 (3) An applicant receiving a provisional real estate appraiser license under subsection (2) shall:

24 (a) complete the actual real estate appraisal experience requirement within 60 months of the date the  
25 provisional real estate appraiser license is issued; and

26 (b) complete a portion of the experience requirement prior to each renewal period and report the  
27 completion of a portion of the person's experience requirement to the board upon each renewal.

28 (4) An applicant under this section shall file an application using forms prescribed by the board and pay  
29 a fee as established by the board.

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1           **Section 2.** Section 30-14-1003, MCA, is amended to read:

2           **"30-14-1003. Exclusions.** The provisions of this part do not apply to a person:

3           (1) inspecting a residential dwelling on behalf of a bank, a savings and loan association, or a credit  
4 union, unless otherwise required by federal law or regulation;

5           (2) employed by the state or a local government to enforce building codes;

6           (3) licensed in Montana and acting within the scope of the person's occupation or profession as:

7           (a) an architect;

8           (b) a professional engineer;

9           (c) an electrician;

10          (d) a master plumber;

11          (e) a real estate broker, broker-salesperson, or salesperson;

12          (f) a licensed, certified, or provisionally licensed real estate appraiser ~~or a certified general or residential~~  
13 ~~real estate appraiser;~~

14          (g) an insurance adjuster;

15          (h) a pesticide applicator; or

16          (i) a licensed property manager."

17

18           **Section 3.** Section 37-54-102, MCA, is amended to read:

19           **"37-54-102. Definitions.** Terms commonly used in appraisal practice and as used in this chapter must  
20 be defined according to the Uniform Standards of Appraisal Practice, as issued by the appraisal foundation. As  
21 used in this chapter, unless the context requires otherwise, the following definitions apply:

22           (1) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit  
23 corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and  
24 Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

25           (a) establish and improve uniform appraisal standards by defining, issuing, and promoting those  
26 standards;

27           (b) establish appropriate criteria for the licensure and certification of qualified appraisers by defining,  
28 issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other  
29 governmental entities; and

30           (c) develop or assist in the development of appropriate examinations for qualified appraisers.

- 1 (2) "Board" means the board of real estate appraisers provided for in 2-15-1758.
- 2 (3) "Certified real estate appraiser" means a person who develops and communicates real estate  
3 appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.
- 4 (4) "Department" means the department of labor and industry provided for in 2-15-1701.
- 5 (5) "Licensed real estate appraisal trainee" means a person authorized only to assist a certified real  
6 estate appraiser in the performance of an appraisal assignment.
- 7 (6) "Licensed real estate appraiser" means a person who holds a current valid real estate appraiser  
8 license issued under 37-54-201.
- 9 (7) "Provisionally licensed real estate appraiser" means a person who holds a current valid provisional  
10 real estate appraiser license issued under [section 1]."

11

12 **Section 4.** Section 37-54-105, MCA, is amended to read:

13 **"37-54-105. Powers and duties of board.** The board shall:

- 14 (1) adopt rules to implement and administer the provisions of this chapter;
- 15 (2) establish and collect fees commensurate with the costs of processing an application for licensure  
16 and certification and renewal of a license or certificate;
- 17 (3) establish minimum requirements for education, experience, and examination for licensure and  
18 certification as set out by the appraisal qualification board of the appraisal foundation;
- 19 (4) prescribe the examinations for licensure or certification and determine the acceptable level of  
20 performance on examinations;
- 21 (5) receive and review applications for licensure and certification and issue licenses and certificates;
- 22 (6) review periodically the standards for development and communication of appraisals and adopt rules  
23 explaining and interpreting the standards;
- 24 (7) retain all applications and other records submitted to it;
- 25 (8) adopt by rule standards of professional appraisal practice in this state;
- 26 (9) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has  
27 violated the standards established for licensed, ~~and certified,~~ or provisionally licensed real estate appraisers;  
28 and
- 29 (10) perform other duties necessary to implement this chapter."
- 30

1           **Section 5.** Section 37-54-111, MCA, is amended to read:

2           **"37-54-111. Certificate of good standing.** The board may issue a certificate of good standing to any  
3 licensed, ~~or certified,~~ or provisionally licensed real estate appraiser who holds a current valid license or certificate  
4 in this state."

5

6           **Section 6.** Section 37-54-201, MCA, is amended to read:

7           **"37-54-201. Real estate appraiser license -- ~~provisional real estate appraiser license~~ -- scope and**  
8 **display of license.** (1) Upon proof that an applicant meets the qualifications set out in 37-54-202 or [section 1],  
9 the board shall issue to the applicant a real estate appraiser license or a provisional real estate appraiser  
10 license.

11           (2) The term "licensed real estate appraiser" or "provisionally licensed real estate appraiser" may not  
12 be used to describe a firm, partnership, corporation, group, or anyone other than an individual licensee.  
13 However, a licensed real estate appraiser or provisionally licensed real estate appraiser may engage in real  
14 estate appraisal as a professional corporation.

15           (3) This chapter does not preclude a person who is not a licensed, ~~or certified,~~ or provisionally licensed  
16 real estate appraiser from appraising real property for transactions not related to a federal agency or project for  
17 compensation if the person does not purport to be a licensed, ~~or certified,~~ or provisionally licensed real estate  
18 appraiser. A person who purports that the person or the person's company is licensed under this section or  
19 certified under 37-54-302 and 37-54-303 without possessing the applicable license or certificate is guilty of a  
20 misdemeanor.

21           (4) This section does not:

22           (a) prohibit a person who is licensed to practice in this state under any law from engaging in the practice  
23 for which the person is licensed;

24           (b) apply to public officials in the conduct of their official duties that are not governed by the rules  
25 established by the federal financial institutions examination council agencies.

26           (5) A licensed, ~~or certified,~~ or provisionally licensed real estate appraiser is subject to restrictions on the  
27 scope of practice, depending on the value and complexity of the federally related transaction or transactions  
28 pursuant to rules established by the federal financial institutions examination council agencies, and the  
29 restrictions must remain current with any changes in those rules.

30           (6) A licensed or provisionally licensed real estate appraiser shall conspicuously display the license in

1 the appraiser's principal place of business."  
2

3 **Section 7.** Section 37-54-202, MCA, is amended to read:

4 **"37-54-202. Qualifications for licensure.** (1) To qualify for a real estate appraiser license, an applicant:

5 (a) must be of good moral character;

6 (b) shall successfully complete a course of study prescribed by the board;

7 (c) must have the type and amount of experience in real estate appraisal prescribed by the board;

8 (d) shall successfully complete an examination prescribed by the board; and

9 (e) shall comply with any other requirements related to the practice of real estate appraisal as  
10 prescribed by the board by rule.

11 (2) To qualify for licensure as a real estate appraisal trainee, an applicant:

12 (a) must be of good moral character;

13 (b) shall successfully complete a course of study prescribed by the board;

14 (c) shall provide a written acknowledgment from the certified real estate appraiser that the applicant will  
15 be assisting; and

16 (d) is not required to take an examination.

17 (3) To qualify for a provisional real estate appraiser license issued under [section 1], the applicant must  
18 meet all of the requirements of subsection (1) of this section, except the experience requirement referred to in  
19 subsection (1)(c)."

20

21 **Section 8.** Section 37-54-210, MCA, is amended to read:

22 **"37-54-210. License renewal.** (1) A real estate appraiser's license or provisional real estate appraiser's  
23 license expires on the date set by department rule.

24 (2) A licensee may renew a license by filing an application with the board on a form approved by the  
25 board, paying a renewal fee prescribed by the board, and meeting all requirements of this chapter.

26 (3) In renewing a license, the board shall ensure that the licensee has a working knowledge of:

27 (a) current real estate appraisal theories; and

28 (b) practices and techniques that will enable the licensee to provide competent appraisal service under  
29 the authority of the license."  
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1           **Section 9.** Section 37-54-211, MCA, is amended to read:

2           **"37-54-211. Late renewal of license.** (1) Subject to subsection (3), a license that is not renewed within  
3 1 year of the most recent renewal date automatically terminates. A licensee may renew the license within the  
4 1-year period from the date of most recent renewal by:

5           (a) filing with the board an application for late renewal on a form approved by the board;

6           (b) satisfying the requirements for continued licensure; and

7           (c) paying a late renewal fee prescribed by the board.

8           (2) The board may refuse to renew a license if the licensee has continued to perform appraisal services  
9 as a licensed real estate appraiser or a provisionally licensed real estate appraiser following expiration of the  
10 license.

11           (3) This section may not be interpreted to conflict with 37-1-138."

12

13           **Section 10.** Section 37-54-403, MCA, is amended to read:

14           **"37-54-403. Standards of professional appraisal practice.** (1) A licensed, or certified, or provisionally  
15 licensed real estate appraiser shall comply with generally accepted standards of professional appraisal practice,  
16 evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal standards  
17 board of the appraisal foundation. A licensed, or certified, or provisionally licensed real estate appraiser shall  
18 comply with these standards regardless of whether the appraisal is a federally related transaction or is capable  
19 of being performed by an unlicensed person under 37-54-201(3).

20           (2) If the appraisal standards board of the appraisal foundation modifies the standards or issues  
21 supplemental standards that it considers appropriate for all classes of real estate appraisers, the modification  
22 is automatically adopted as observable in this state unless the board determines that a public hearing is  
23 necessary to determine whether the modified or supplemented standards must be observed in this state. If  
24 following the hearing the board determines that the modified or supplemented standards are appropriate, the  
25 board shall adopt the standards by rule."

26

27           **Section 11.** Section 37-54-411, MCA, is amended to read:

28           **"37-54-411. Classification of services.** (1) A client or employer may retain or employ a licensed, or  
29 certified, or provisionally licensed real estate appraiser to:

30           (a) act as a disinterested third party in rendering an unbiased analysis, opinion, conclusion, or estimate

1 of value; or

2 (b) provide specialized appraisal services to facilitate the client's or employer's objectives.

3 (2) In either instance described in subsection (1), the appraisal and appraisal report must comply with  
4 the provisions of this chapter."

5

6 **Section 12.** Section 37-54-412, MCA, is amended to read:

7 **"37-54-412. Collection of appraisal fees.** A person who performs independent appraisal services as  
8 a licensed, ~~or certified,~~ or provisionally licensed real estate appraiser in this state may not bring an action in any  
9 court in this state to collect compensation for the performance of those services unless ~~he~~ the person alleges  
10 and proves that ~~he~~ the person held a valid license or certificate at all times during the performance of those  
11 services."

12

13 **Section 13.** Section 37-54-415, MCA, is amended to read:

14 **"37-54-415. Place of business.** (1) A resident licensed, ~~or certified,~~ or provisionally licensed real estate  
15 appraiser shall maintain a principal place of business in this state. If the appraiser changes ~~his~~ the principal place  
16 of business, ~~he~~ the appraiser shall promptly notify the board in writing of the change. Upon receipt of notice of  
17 the change, the board shall issue a new license or certificate for the unexpired term, stating the principal place  
18 of business.

19 (2) A nonresident licensee is not required to maintain a place of business in this state if ~~he~~ the  
20 nonresident licensee maintains a principal place of business in ~~his~~ the nonresident licensee's domicile state."

21

22 **Section 14.** Section 37-54-416, MCA, is amended to read:

23 **"37-54-416. Retention of records.** (1) A licensed, ~~or certified,~~ or provisionally licensed real estate  
24 appraiser shall retain for 5 years from the date of submission of an appraisal report to a client:

25 (a) an original or true copy of any written contract engaging ~~his~~ the appraiser's services as an appraiser;

26 (b) an appraisal report prepared or signed by the licensed, ~~or certified,~~ or provisionally licensed real  
27 estate appraiser; and

28 (c) all supporting data assembled and formulated by the licensed, ~~or certified,~~ or provisionally licensed  
29 real estate appraiser in preparing the appraisal report.

30 (2) If a licensed, ~~or certified,~~ or provisionally licensed real estate appraiser is notified within this 5-year

1 period that the appraisal report is involved in litigation, the appraiser shall retain the appraisal report for 5 years  
2 from the final date of disposition of the litigation.

3 (3) The licensed, ~~or certified,~~ or provisionally licensed real estate appraiser shall make available to the  
4 board at reasonable times, for inspection and copying, any appraisal report ~~he~~ that the appraiser is required to  
5 maintain under the provisions of this section."

6  
7 **NEW SECTION. Section 15. Codification instruction.** [Section 1] is intended to be codified as an  
8 integral part of Title 37, chapter 54, part 2, and the provisions of Title 37, chapter 54, part 2, apply to [section 1].

9 - END -